

CHAPTER 387

TRANSPORTATION

SENATE BILL 19-239

BY SENATOR(S) Winter and Bridges, Moreno, Priola;
also REPRESENTATIVE(S) Gray and Hansen, Bird, Buentello, Cutter, Duran, Hooton, Michaelson Jenet, Valdez A.

AN ACT

CONCERNING MEANS OF ADDRESSING THE IMPACTS OF TECHNOLOGICAL AND BUSINESS MODEL CHANGES RELATED TO COMMERCIAL VEHICLES, AND, IN CONNECTION THEREWITH, REQUIRING THE DEPARTMENT OF TRANSPORTATION TO CONVENE AND CONSULT WITH A STAKEHOLDER GROUP TO EXAMINE IMPACTS OF NEW TRANSPORTATION TECHNOLOGIES AND BUSINESS MODELS, IDENTIFY MEANS OF ADDRESSING IMPACTS, AND REPORT FINDINGS AND MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** 43-1-125 as follows:

43-1-125. Motor vehicles used for commercial purposes - stakeholder group - reporting - rules - legislative declaration - definition. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) THE WAY IN WHICH COLORADANS TRAVEL IS RAPIDLY CHANGING, AND THE ADOPTION OF NEW TECHNOLOGIES IMPACTS BOTH THE MANNER IN WHICH PEOPLE TRAVEL AND THE NUMBER OF VEHICLES ON COLORADO ROADS, PRESENTS OPPORTUNITIES FOR INCREASED EFFICIENCY, AND REQUIRES THOROUGH REVIEW;

(b) THE STATE MUST ADAPT TO THESE CHANGES BY ENCOURAGING THEM TO THE EXTENT THAT THEY BENEFIT THE ENVIRONMENT AND FACILITATE THE EFFECTIVE MOVEMENT OF PEOPLE WHILE BEING PROACTIVE IN ADDRESSING ANY NEGATIVE IMPACTS. SPECIFICALLY, THE STATE MUST:

(I) ENSURE ONGOING FUNDING FOR THE TRANSPORTATION INFRASTRUCTURE NEEDED TO SUPPORT THE CHANGES, INCLUDING THE INFRASTRUCTURE NEEDED TO SUPPORT THE ADOPTION OF NEW TRANSPORTATION TECHNOLOGIES INCLUDING ZERO-EMISSIONS VEHICLES; AND

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(II) REDUCE AND MITIGATE THE IMPACT ON THE ENVIRONMENT AND THE TRANSPORTATION SYSTEM RESULTING FROM THE INCREASING COMMERCIAL USE OF PERSONAL VEHICLES FOR THE PURPOSES OF RIDE SHARING PROVIDED THROUGH TRANSPORTATION NETWORK COMPANIES, AS DEFINED IN SECTION 40-10.1-602 (3), AND CAR SHARING AND PERSONAL AND FLEET VEHICLES FOR CERTAIN OTHER COMMERCIAL PURPOSES BY INCENTIVIZING AMELIORATIVE PRACTICES SUCH AS THE ADOPTION OF ZERO-EMISSIONS VEHICLES FOR SUCH COMMERCIAL USE, MULTIPLE PASSENGER RIDE SHARING, AND THE USE OF RIDE SHARING AS A FIRST AND LAST MILE SOLUTION FOR USERS OF PUBLIC TRANSIT.

(2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT IT IS NECESSARY, APPROPRIATE, AND IN THE BEST INTEREST OF THE STATE TO:

(a) REQUIRE THE DEPARTMENT TO CONVENE, ENGAGE IN ROBUST CONSULTATION WITH, AND STRONGLY CONSIDER THE FORMAL POLICY RECOMMENDATIONS OF A STAKEHOLDER GROUP COMPRISED OF REPRESENTATIVES OF POTENTIALLY AFFECTED INDUSTRIES, WORKERS, GOVERNMENTAL ENTITIES, PLANNING ORGANIZATIONS, AND INTEREST GROUPS FOR THE PURPOSES OF:

(I) EXAMINING THE ECONOMIC, ENVIRONMENTAL, AND TRANSPORTATION SYSTEM IMPACTS OF THE ADOPTION OF NEW AND EMERGING TECHNOLOGIES AND TRANSPORTATION BUSINESS MODELS;

(II) RECEIVE INFORMATION AND RECOMMENDATIONS FROM THE FREIGHT ADVISORY COUNCIL REGARDING CURRENT AND EVOLVING PRACTICES RELATED TO THE RESIDENTIAL DELIVERY OF GOODS; AND

(III) RECOMMENDING TO THE DEPARTMENT:

(A) MEANS OF ADDRESSING THE IMPACTS THAT INCREASE POSITIVE IMPACTS AND MITIGATE NEGATIVE IMPACTS; AND

(B) WHETHER FEES SHOULD BE LEVIED UPON THE USE OF MOTOR VEHICLES USED FOR COMMERCIAL PURPOSES; AND

(b) AUTHORIZE THE DEPARTMENT TO PROMULGATE RULES THAT IMPLEMENT STAKEHOLDER GROUP AND LEGISLATIVE RECOMMENDATIONS.

(3) (a) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "MOTOR VEHICLE USED FOR COMMERCIAL PURPOSES" MEANS A MOTOR VEHICLE THAT IS USED TO PROVIDE PASSENGER TRANSPORTATION SERVICES PURCHASED THROUGH A TRANSPORTATION NETWORK COMPANY, AS DEFINED IN SECTION 40-10.1-602 (3), A PEER-TO-PEER CAR SHARING COMPANY, A CAR SHARING COMPANY THAT DOES NOT USE A PEER-TO-PEER BUSINESS MODEL, OR A COMPANY THAT PROVIDES TAXICAB SERVICE, AS DEFINED IN SECTION 40-10.1-101 (19), A MOTOR VEHICLE THAT IS RENTED OUT BY A RENTAL CAR COMPANY, AND A MOTOR VEHICLE THAT IS USED FOR RESIDENTIAL DELIVERY OF GOODS.

(b) "MOTOR VEHICLE USED FOR COMMERCIAL PURPOSES" DOES NOT INCLUDE:

(I) A MOTOR VEHICLE USED TO DELIVER GOODS THAT IS USED ONLY TO DELIVER GOODS:

(A) TO ADDRESSES OTHER THAN RESIDENCES; OR

(B) THAT ARE DELIVERED AS FREIGHT;

(II) A MOTOR VEHICLE THAT HAS A GROSS VEHICLE WEIGHT RATING OF MORE THAN FOURTEEN THOUSAND POUNDS; OR

(III) A MOTOR VEHICLE THAT IS OPERATED FOR THE PURPOSE OF TRANSPORTING PASSENGERS:

(A) UNDER A CONTRACT WITH THE REGIONAL TRANSPORTATION DISTRICT CREATED IN SECTION 32-9-105, A REGIONAL TRANSPORTATION AUTHORITY CREATED PURSUANT TO PART 6 OF ARTICLE 4 OF THIS TITLE 43, OR ANY OTHER GOVERNMENTAL OR PUBLIC ENTITY; OR

(B) BY A COMMON CARRIER, AS DEFINED IN SECTION 40-1-102 (3), EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3)(a) OF THIS SECTION.

(4) THE DEPARTMENT SHALL CONVENE AND ENGAGE IN ROBUST CONSULTATION WITH A STAKEHOLDER GROUP CONSISTING OF:

(a) THE FOLLOWING STATE GOVERNMENT EMPLOYEES:

(I) AN EMPLOYEE OF THE DEPARTMENT WHO IS NOT AN EMPLOYEE OF THE HIGH-PERFORMANCE TRANSPORTATION ENTERPRISE CREATED IN SECTION 43-4-806 (2)(a)(I);

(II) AN EMPLOYEE OF THE COLORADO ENERGY OFFICE CREATED IN SECTION 24-38.5-101 (1);

(III) AN EMPLOYEE OF THE DEPARTMENT OF REVENUE; AND

(IV) THE CHIEF OF THE COLORADO STATE PATROL OR THE CHIEF'S DESIGNEE.

(b) THE FOLLOWING REPRESENTATIVES OF STATE AND LOCAL GOVERNMENTS AND TRANSPORTATION PLANNING ENTITIES:

(I) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION THAT REPRESENTS THE INTERESTS OF COUNTIES;

(II) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION THAT REPRESENTS THE INTERESTS OF MUNICIPALITIES;

(III) A REPRESENTATIVE OF METROPOLITAN PLANNING ORGANIZATIONS, AS DEFINED IN SECTION 43-1-1102 (4); AND

(IV) A REPRESENTATIVE OF RURAL TRANSPORTATION PLANNING ORGANIZATIONS;

(c) REPRESENTATIVES OF THE FOLLOWING TYPES OF BUSINESSES:

(I) TWO REPRESENTATIVES OF TRANSPORTATION NETWORK COMPANIES, AS DEFINED IN SECTION 40-10.1-602 (3);

(II) A REPRESENTATIVE OF A BUSINESS THAT HAS EXPERTISE REGARDING THE TECHNOLOGY AND PROCESSES REQUIRED TO DEVELOP, IMPLEMENT, AND ADMINISTER A ROAD USAGE CHARGE PROGRAM;

(III) A REPRESENTATIVE OF CERTIFICATED TAXI CARRIERS;

(IV) A REPRESENTATIVE OF A RENTAL CAR COMPANY;

(V) A REPRESENTATIVE OF A BUSINESS THAT IS A PEER-TO-PEER CAR SHARING PROGRAM;

(VI) A REPRESENTATIVE OF A CAR SHARING NETWORK COMPANY THAT DOES NOT USE A PEER-TO-PEER CAR SHARING BUSINESS MODEL;

(VII) A REPRESENTATIVE OF THE FREIGHT ADVISORY COUNCIL;

(VIII) A REPRESENTATIVE OF THE CONTRACTING INDUSTRY THAT WORKS ON OR REPRESENTS BUSINESSES THAT WORK ON TRANSPORTATION INFRASTRUCTURE PROJECTS;

(IX) A REPRESENTATIVE OF THE ENGINEERING INDUSTRY;

(X) A REPRESENTATIVE OF BUSINESSES THAT PROVIDE PACKAGE DELIVERY SERVICES TO END USERS OF THE GOODS IN THE PACKAGES FOR OTHER BUSINESSES;

(XI) A REPRESENTATIVE OF BUSINESSES THAT HIRE DRIVERS TO USE THEIR PERSONAL MOTOR VEHICLES TO DELIVER THEIR OWN GOODS TO END USERS OF THE GOODS;

(XII) A REPRESENTATIVE OF TOWING AND RECOVERY PROFESSIONALS OF COLORADO;

(XIII) A REPRESENTATIVE OF AUTONOMOUS VEHICLE MANUFACTURERS; AND

(XIV) A REPRESENTATIVE OF AUTONOMOUS VEHICLE TECHNOLOGY COMPANIES.

(d) A LABOR REPRESENTATIVE;

(e) A REPRESENTATIVE OF PERSONS WITH DISABILITIES;

(f) A REPRESENTATIVE OF PERSONS WHO ADVOCATE FOR THE PROTECTION OF THE ENVIRONMENT;

(g) A TRANSPORTATION NETWORK COMPANY DRIVER, AS DEFINED IN SECTION 40-10.1-602 (4); AND

(h) ANY OTHER INDIVIDUALS WHO THE DEPARTMENT DEEMS NECESSARY OR APPROPRIATE TO INCLUDE IN THE STAKEHOLDER GROUP.

(5) THE STAKEHOLDER GROUP CONVENED AS REQUIRED BY SUBSECTION (4) OF THIS SECTION SHALL:

(a) EXAMINE THE ECONOMIC, ENVIRONMENTAL, AND TRANSPORTATION SYSTEM IMPACTS OF THE ADOPTION OF NEW AND EMERGING TRANSPORTATION TECHNOLOGIES AND BUSINESS MODELS AND IDENTIFY POTENTIAL MEANS OF ADDRESSING THE IMPACTS THAT INCREASE POSITIVE IMPACTS AND MITIGATE NEGATIVE IMPACTS. NEITHER THE DEPARTMENT NOR THE STAKEHOLDER GROUP SHALL OBTAIN OR EXAMINE ANY PERSONAL OR PRIVATE INFORMATION CONCERNING USERS OF RIDE SHARING SERVICES AS PART OF THE EXAMINATION. THE EXAMINATION SHALL INCLUDE, AT A MINIMUM:

(I) QUANTIFICATION OF THE AMOUNT OF CARBON EMISSIONS THAT CAN BE ELIMINATED THROUGH DIFFERENT MEANS OF INCENTIVIZING AND SUPPORTING THE USE OF ZERO-EMISSIONS VEHICLES AS MOTOR VEHICLES USED FOR COMMERCIAL PURPOSES;

(II) EXAMINATION OF THE EFFECTS OF DIFFERENT MEANS OF INCENTIVIZING MULTIPLE OCCUPANT TRIPS IN MOTOR VEHICLES USED FOR COMMERCIAL PURPOSES;

(III) IDENTIFICATION OF THE ADDITIONAL OR IMPROVED TRANSPORTATION INFRASTRUCTURE, INCLUDING MULTIMODAL INFRASTRUCTURE AND INFRASTRUCTURE NEEDED TO SUPPORT THE ADOPTION AND USE OF ZERO-EMISSIONS VEHICLES, THAT IS REQUIRED TO ACCOMMODATE THE IMPACTS ON TRANSPORTATION INFRASTRUCTURE RESULTING FROM UTILIZATION OF MOTOR VEHICLES USED FOR COMMERCIAL PURPOSES;

(IV) EXAMINATION OF REPEALING THE REQUIREMENT OF SECTION 40-10.1-605 (1)(d)(IV) THAT A TRANSPORTATION NETWORK COMPANY, AS DEFINED IN SECTION 40-10.1-602 (3), POSSESS PROOF THAT A TRANSPORTATION NETWORK COMPANY DRIVER, AS DEFINED IN SECTION 40-10.1-602 (4) IS MEDICALLY FIT TO DRIVE; AND

(V) ASSESSMENT OF THE COSTS OF IMPLEMENTING IDENTIFIED POTENTIAL MEANS OF ADDRESSING THE IMPACTS; AND

(b) PRESENT TO THE DEPARTMENT NO LATER THAN NOVEMBER 1, 2019, A REPORT OF POLICY RECOMMENDATIONS REGARDING THE IMPACTS EXAMINED AS REQUIRED BY SUBSECTION (5)(a) OF THIS SECTION AND MEANS OF ADDRESSING THOSE IMPACTS WITH FUNDING FROM THE IMPOSITION OF FEES ON THE USE OF MOTOR VEHICLES USED FOR COMMERCIAL PURPOSES. THE REPORT MUST, AT A MINIMUM:

(I) IDENTIFY POTENTIAL FEES TO:

(A) GENERATE SUFFICIENT REVENUE FOR THE STATE AND LOCAL GOVERNMENTS TO MITIGATE THE IMPACTS TO THE TRANSPORTATION SYSTEM RESULTING FROM THE INCREASING USE OF MOTOR VEHICLES USED FOR COMMERCIAL PURPOSES, FUND NEEDED TRANSPORTATION INFRASTRUCTURE, INCLUDING MULTIMODAL INFRASTRUCTURE AND THE INFRASTRUCTURE NEEDED TO SUPPORT THE ADOPTION

OF ZERO-EMISSIONS VEHICLES, AND DEFRAID THE ADMINISTRATIVE COSTS OF FEE COLLECTION;

(B) INCENTIVIZE THE ADOPTION OF ZERO-EMISSIONS VEHICLES FOR UTILIZATION AS MOTOR VEHICLES USED FOR COMMERCIAL PURPOSES; AND

(C) INCENTIVIZE MULTIPLE PASSENGER RIDE SHARING FOR MOTOR VEHICLES USED FOR COMMERCIAL PURPOSES AND THE USE OF SUCH VEHICLES AS A FIRST AND LAST MILE SOLUTION FOR PUBLIC TRANSIT USERS;

(II) SUBJECT TO THE REQUIREMENT THAT FEES BE IMPOSED ONLY ON BUSINESS ENTITIES AND NOT UPON INDIVIDUALS USING MOTOR VEHICLES THAT ARE OWNED PRIMARILY AS PERSONAL VEHICLES BUT ARE ALSO USED FOR COMMERCIAL PURPOSES, PROVIDE RECOMMENDATIONS AS TO WHETHER FEES SHOULD BE IMPOSED ON SUCH MOTOR VEHICLES USED FOR COMMERCIAL PURPOSES.

(III) PROVIDE RECOMMENDATIONS REGARDING THE MANNER IN WHICH FEES SHOULD BE CALCULATED AND IMPOSED, INCLUDING BUT NOT LIMITED TO ANALYSIS OF WHETHER FEES SHOULD BE:

(A) FLAT OR VARIABLE;

(B) CALCULATED AND IMPOSED ON A PER TRIP BASIS, A MILEAGE BASIS, OR A COMBINATION OF SUCH BASES, OR IN SOME OTHER MANNER;

(C) IMPOSED AT DIFFERENT RATES ON DIFFERENT CLASSES OF MOTOR VEHICLES;

(D) IMPOSED AT DIFFERENT RATES IN DIFFERENT LOCATIONS, AT DIFFERENT TIMES OF DAY, OR BASED ON REAL-TIME ANALYSIS OF TRAFFIC CONGESTION;

(E) WAIVED OR REDUCED FOR TRIPS FOR WHICH A MOTOR VEHICLE USED FOR COMMERCIAL PURPOSES IS USED AS A FIRST AND LAST MILE SOLUTION FOR USERS OF PUBLIC TRANSIT; OR

(F) CAPPED AT ONE OR MORE SPECIFIED MAXIMUM AMOUNTS; AND

(IV) PROVIDE RECOMMENDATIONS REGARDING THE RATE OR RATES AT WHICH OR THE RANGE OR RANGES OF RATES WITHIN WHICH FEES SHOULD BE IMPOSED.

(6) THE DEPARTMENT SHALL REPORT ON THE PROGRESS AND POLICY RECOMMENDATIONS OF THE STAKEHOLDER GROUP, THE PRELIMINARY PLANS AND RECOMMENDATIONS OF THE DEPARTMENT REGARDING THE DEVELOPMENT AND PROMULGATION OF RULES AS REQUIRED BY SUBSECTION (7)(a) OF THIS SECTION, AND ANY RECOMMENDATIONS THAT THE DEPARTMENT HAS REGARDING THE NEED FOR RELATED LEGISLATION DURING ITS 2019 ANNUAL PRESENTATION TO LEGISLATIVE OVERSIGHT COMMITTEES REQUIRED BY SECTION 2-7-203 (2)(a). IN PREPARATION FOR THE PRESENTATION, THE DEPARTMENT SHALL GIVE STRONG CONSIDERATION TO THE POLICY RECOMMENDATIONS REPORT PROVIDED BY THE STAKEHOLDER GROUP AS REQUIRED BY SUBSECTION (5)(b) OF THIS SECTION.

(7)(a) NO LATER THAN OCTOBER 1, 2020, WITHIN ANY STATUTORY PARAMETERS

ESTABLISHED BY THE GENERAL ASSEMBLY THROUGH LEGISLATION ENACTED DURING THE 2020 LEGISLATIVE SESSION, AND CONTINUING TO GIVE STRONG CONSIDERATION TO THE POLICY RECOMMENDATIONS REPORT PROVIDED BY THE STAKEHOLDER GROUP AS REQUIRED BY SUBSECTION (5)(b) OF THIS SECTION, THE DEPARTMENT SHALL PROMULGATE RULES TO THE EXTENT NECESSARY TO EFFECTIVELY IMPLEMENT THIS SECTION. IF THE GENERAL ASSEMBLY DOES NOT IMPOSE FEES ON MOTOR VEHICLES USED FOR COMMERCIAL PURPOSES THROUGH LEGISLATION ENACTED DURING THE 2020 LEGISLATIVE SESSION AND INSTEAD ENACTS LEGISLATION THAT AUTHORIZES THE DEPARTMENT OR ANY ENTERPRISE OF THE DEPARTMENT TO IMPOSE SUCH FEES, THE RULES MAY IMPOSE FEES TO THE EXTENT AUTHORIZED BY THE LEGISLATION.

(b) DURING THE 2020 LEGISLATIVE INTERIM, THE DEPARTMENT SHALL PRESENT A FINAL WRITTEN REPORT REGARDING THE STAKEHOLDER GROUP AND RULE-MAKING PROCESSES AND ANY RULES PROMULGATED PURSUANT TO SUBSECTION (7)(a) OF THIS SECTION TO THE TRANSPORTATION LEGISLATION REVIEW COMMITTEE CREATED IN SECTION 43-2-145.

(8) NOTHING IN THIS SECTION SHALL SUPPLANT THE ACTIVITIES OR WORK BEING CONDUCTED BY THE FREIGHT ADVISORY COUNCIL.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 31, 2019